

ORDINANCE NO. 2020-06

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AMENDING SECTION 2-30 "GENERAL RULES AND POLICIES" OF ARTICLE III "COMMISSIONS, BOARDS AND COMMITTEES" OF THE CODE OF ORDINANCES OF THE VILLAGE OF BISCAYNE PARK, PROVIDING THAT ALTERNATE MEMBERS OF BOARDS OR COMMITTEES SHALL HAVE THE SAME POWERS AS REGULAR MEMBERS IN THE EVENT OF AN ABSENCE OR CONFLICT OF INTEREST INVOLVING A REGULAR MEMBER OF THE BOARD OR COMMITTEE WHICH MAKES THEM UNABLE TO PARTICIPATE IN A MEETING; PROVIDING FOR INCLUSION IN THE CODE AND SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Section 2-30 of the Code of Ordinances (the "Code") of the Village of Biscayne Park (the "Village") governs the general rules and policies related to the boards and committees of the Village; and

WHEREAS, Section 2-30(b)(1) provides that the Village Commission may "appoint alternates for any board or committee as it deems necessary"; and

WHEREAS, consistent with and in furtherance of the appointment of alternates to the boards and committees of the Village, and to maximize participation in the Village's various boards and committees, the Village Commission wishes to amend the Code to provide that alternate members shall be entitled to vote on matters before them, and otherwise participate fully as members of their respective board or committee in the event any of the regular members are for any reason unavailable to participate in a meeting of said board or committee; and

WHEREAS, on December 1st, 2021 the Village Commission held a first reading and public hearing of this proposed Ordinance; and

WHEREAS, on January __, 2022 the Village Commission held a second reading and public reading of this proposed Ordinance with due public notice and input.

NOW, THEREFORE, BE ORDAINED BY THE VILLAGE OF BISCAYNE PARK, FLORIDA AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Village Commission.

1 **Section 2. Amendments to the Code of Ordinances.** Chapter III of the Code of Ordinances
2 of the Village of Biscayne Park, Florida is hereby amended as follows:

3
4 **CHAPTER III. – COMMISSIONS, BOARDS AND COMMITTEES**

5
6 ***

7 **Sec. 2-30. - General rules and policies.**

8
9 Sec. 2-30. - General rules and policies.

10 (a) *Application of article; definitions; authority to appoint.*

11 (1) *Established.* The boards and committees currently on file with the village clerk are established
12 as the official boards and committees of the village. Consistent with section 3.06 of the village
13 Charter, the commission may establish or terminate boards or committees as deemed advisable.

14 (2) *Application.* The provisions of this section shall apply to all appointive boards and committees
15 of the village established under this article, except as otherwise provided in this Code.

16 (3) *Definitions.* The following words, terms and phrases, when used in this article, shall have the
17 meanings ascribed to them in this subsection, except where the context clearly indicates a
18 different meaning:

19
20 *Board or committee* for purposes of this article includes every agency, authority, advisory
21 board, regulatory board, quasi-judicial board, semi-autonomous instrumentality, committee,
22 council, task force or any other citizens' group established under this article and funded in
23 whole or in part by the village commission. Except as otherwise provided herein, or in the
24 village Charter, village boards and citizens' advisory groups shall only be created by action of
25 the village commission, and only the village commission, as a body, shall appoint the members
26 to such boards or committees.

27
28 *Relative* means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law,
29 mother-in-law, son-in-law, or daughter-in-law.

30
31 *Resident* means a natural person who resides within the village for not less than six (6) months
32 in each calendar year.

33
34 (4) *Authority to appoint.* The village commission may create boards and committees to be
35 composed of such number of residents as the commission may deem expedient to act in an
36 advisory capacity concerning any issue or subject.

37 (5) *Removal.* Board and committee members may be removed at any time by a majority vote of the
38 village commission.

39 (6) *Confidentiality.* Except when exempt by state law, all information received by the village on
40 board and committee members is subject to public records law.

41 (7) *More restrictive requirements.* That any requirements set forth in a resolution or ordinance
42 creating an individual board or committee which are more restrictive than the requirements herein
43 shall remain in effect.

44 (8) *Less restrictive requirements.* That the requirements herein shall supersede any less restrictive
45 requirements set forth in a resolution or ordinance creating an individual board or committee.
46
47
48
49

1 (9) *Review to determine continuation of existing board or committee.* The village commission may
2 review a board or committee at any time to determine whether the board or committee shall
3 continue to exist, amend or change its purpose and requirement.

4 (10) *Automatic trigger of review.* Failure of a board or committee to have a quorum at two (2)
5 consecutive meetings shall automatically trigger review by the village commission.
6

7 (b) *Qualifications and appointment of members.*

8 (1) *Manner of appointment.* Any person appointed to any board or committee of the village shall
9 be appointed by the village commission in the following manner:

10 a. Unless otherwise agreed by the commission, each board or committee established under this
11 article will consist of five (5) members that shall be appointed by the village commission by a
12 simple majority vote. The village commission may appoint alternates for any board or committee
13 as it deems necessary.

14 b. The village clerk shall notify the village commission, in writing, of upcoming vacancies on the
15 boards or committees. The village clerk shall also post such vacancies on the village's web page
16 and outside Village Hall.

17 c. During regular village commission meetings each month, appointments will be made by the
18 village commission to fill vacancies.

19 d. When a vacancy due to resignation, removal or death is filled, the appointment of a replacement
20 member shall take effect on the date of appointment, except as may otherwise be provided by state
21 law.

22 e. The village manager shall designate a staff liaison to each board established under this article.

23 (2) *Prohibition of appointment of relatives.* An individual cannot be appointed to any village board
24 or committee if that person is a relative (as defined above) of a current village commissioner or
25 another relative is on that board or committee.

26 (3) *Resident/nonresident members.* Unless otherwise specifically provided in the Charter or the
27 Code, all members of village boards and committees shall be residents of the village, unless such
28 requirement is waived by the village commission by a four-fifths vote of its membership.

29 (4) *Member ceasing to be in compliance with eligibility requirements.* The village clerk shall
30 inform the village commission whenever a board or committee member has ceased to be in
31 compliance with eligibility requirements for board membership and said board or committee
32 member shall be automatically removed from the board or committee. The village clerk shall
33 then inform the village commission in writing that the position has been declared vacant. Upon
34 being advised by the village clerk of such circumstances, the vacancy will be promptly filled,
35 consistent with subsection (b) above.

36 (5) *Qualification as candidate for village commission office deemed tender of resignation.* No
37 member of any village board or committee shall become a candidate for village commission
38 office without resigning from that board or committee. Should any member of a village board or
39 committee qualify as a candidate for village commission office, such qualification shall be
40 deemed a tender of resignation from such board or committee as of the date on which the member
41 qualifies for village commission office.

42 (6) *Compensation.* All members of boards and committees shall serve without compensation.

43 (7) *Travel expenses.* Requests for travel expenses for attendance by board and committee members
44 at seminars, conferences and meetings shall be submitted for consideration during the budget
45 review process. Unanticipated expenses must be approved by the village commission.
46
47
48
49

1 (c) *Terms of members.* The terms of office of the members of each board and committee shall be up for
2 reappointment yearly at the regular March village commission meeting.

3 (d) *Attendance by members at meetings; resignation of members.*

4 (1) *Excessive absences defined.* Except as may otherwise be provided by law, a member of any
5 board or committee may be removed by the village commission or village manager for excessive
6 absences. The term "excessive absences" shall mean:

- 7
- 8 a. For a board or committee that meets monthly on a regular basis, more than three (3) unexcused
9 absences in any consecutive twelve-month period.
 - 10 b. For a board or committee which meets less often than monthly on a regular basis, more than three
11 (3) absences, excused or unexcused, in any consecutive twelve-month period.
 - 12 c. For a board or committee meeting more often than monthly on a regular basis, more than five (5)
13 unexcused absences, in any consecutive twelve-month period.
 - 14 d. For an excused absence, a board or committee member must advise the village clerk prior to the
15 meeting of the fact that they will be absent and provide a reason for that absence. The board or
16 committee may vote to excuse the requested absence at the same meeting the board or committee
17 member is absent. The absence, and whether or not the absence is excused or unexcused, is to be
18 reflected in the minutes.

19 (2) *Minutes/records.* The board or committee must ensure that minutes are taken and are approved
20 by the board or committee on a regular basis. The minutes must provide the vote of each member
21 on each motion or, if absent, failing to vote, all of which shall be filed with the clerk promptly.
22 The village clerk shall prepare a standard form to be used by all boards and committees to report
23 their member's attendance at their meetings.

24 (3) *Resignation of members.* Members of boards and committees may resign at any time.

25
26 (e) *Alternate members.* In the event of a temporary absence or the disqualification of any regular member
27 of a board or committee, the chairperson of the board or committee shall have the right and authority to
28 designate any alternate member of the board or committee to serve on the board or committee during the
29 continuance of such absence or disqualification. Alternate members may be designated to serve even
30 where their participation is not required for the board or committee to acquire a quorum. While serving,
31 alternates shall have the same power as regular members. Alternate members shall attend all meetings of
32 the board or committee until such time as it has been determined by the chairperson that all regular
33 members are in attendance and that there are no conflicts of interest which would prohibit a regular
34 member from serving. Alternate members that are not designated to serve at a given meeting may
35 nevertheless remain for the duration of the meeting and comment on items before the board or committee;
36 however, they shall not be permitted to vote.

37 (e) (f) *Chairperson; bylaws; meetings.*

38
39 (1) *Rules of procedure.* The boards and committees established by the village shall ensure that they
40 duly elect a chairperson, vice-chairperson, and secretary. The chairperson or, in their absence,
41 the vice-chairperson, shall run the meeting. The secretary shall ensure that minutes are kept and
42 placed on the agenda for approval. Each board and committee shall adhere to Robert's Rules of
43 Order, Newly Revised, to the extent that such rules do not conflict with this article, rules adopted
44 by the board or committee, or applicable state law.

45 (2) *Removal of chairperson and other officers.* Upon a super-majority vote by a board or
46 committee, the chairperson or any other officer may be removed.

47 (3) *Quorum; exceptions.* A quorum for all boards'/committees' meetings, shall consist of the
48 majority of the board's total membership. The decision of a majority of the board or committee
49

members present and voting at a meeting at which a quorum is present shall be the decision of the board or committee.

- (4) *Oath requirement.* All board and committee members shall be required to subscribe to an oath or affirmation to be filed in the office of the village clerk, swearing or affirming to support, protect and defend the Constitution and laws of the United States, and of the state, the Charter and all ordinances of the village and the county and in all respects to faithfully discharge their duties.
- (5) *Open meetings.* All meetings shall be open to the public and conducted in accordance with the requirements of the Sunshine Law, as set forth in the Florida Statutes. Pursuant to the village Charter, meetings and agenda procedures shall be adopted to enhance the opportunity for public participation. All village boards and committees shall provide the village clerk for posting:
 - a. Written notice of meetings at least seven (7) days prior to such meetings, except in the case of emergency meetings;
 - b. Written agenda and supporting documentation to the extent available concerning the matters for discussion at least three (3) days prior to such meetings; and
 - c. Minutes to document a reasonable summary of the actions taken at the meeting within sixty (60) days after such meeting.
- (6) *Voting requirement.* No board or committee members shall be permitted to abstain from voting, except when there is, or appears to be a possible conflict of interest, as defined in the Florida Statutes. When a conflict occurs, a conflict of interest form shall be filed and kept in the office of the village clerk.
- (7) *Members transacting business with village.* The county conflict of interest and code of ethics ordinance (hereinafter referred to as the "conflict of interest ordinance") section 2-11.1 of the county code shall be applicable to all members of commission appointed boards and committees.
- (8) *Endorsing candidates, etc.* No village board or committee shall endorse candidates for public office, or support a particular position on a public question scheduled to appear on an official governmental ballot, or poll candidates for public office as to their views, or engage in any other form of partisan political activity as a village board or committee. Nothing contained in this subsection shall be deemed to prohibit any individual member of such a board or committee from expressing a personal opinion on any candidate or issue or from participating in any political campaign during hours not serving or performing board or committee functions, so long as such activities are not in conflict with other provisions of state, county, or village law. Should any member of any village board or committee violate this section, in the opinion of the village commission, such violation shall be deemed a tender of resignation from the board or committee.
- (9) *Fundraising; bank accounts.* No board or committee may engage in fundraising activities or establish bank accounts without the express authority and subject to conditions as imposed by the village commission.

~~(f)~~ (g) *Creation of new boards and committees.*

- (1) Except for ad hoc or limited term special purpose boards and committees, all village boards and committees created after October 1, 2008, shall be created only by ordinance. Such ordinance shall set forth the board/committee's purpose, function, power, responsibility, jurisdiction, membership requirements and restrictions, terms and conditions of appointment to or removal from the board or committee, and the specific staff support, if any, to be provided to the board or committee.

- (2) After passage on first reading of an ordinance creating a new board or committee and prior to the second reading of said ordinance, the village manager shall submit to the village commission a report setting forth the following information concerning the proposed new board or committee:
- For boards and committees, whether the establishment of the board or committee will create sufficient betterment to the community to justify the village commission's delegation of a portion of its authority.
 - Whether another board, committee or agency, either public or private, which is already in existence, could serve the same purpose.
 - The costs, both direct and indirect, of establishing and maintaining the board or committee.
 - Whether the board or committee is necessary to enable the village to obtain state or federal grants or other financing.
 - For boards and committees other than advisory boards, whether the board or committee should have the final authority or whether its decision must be approved by the village commission.
 - Whether the creation of a new board or committee is the best method of achieving the benefit desired.
 - Except in exigent circumstances, the second reading shall be held no earlier than fifteen (15) days after passage on first reading of the ordinance creating said board or committee.

Section 4. Inclusion in the Code & Scrivener's Errors. The Village Commission intends that the provisions of this Ordinance be made a part of the Village of Biscayne Park Code of Ordinances, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the Village Manager without further process.

Section 5. Conflicts. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

Section 6. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 7. Effective Date. This Ordinance shall become effective upon adoption by the Village Commission.

PASSED AND ADOPTED upon first reading this 1st day of December, 2020.

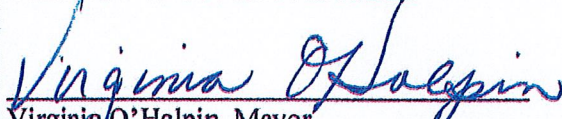
Arturo Jose Gonzalez, Vice Mayor	Yes
Judi Hamelburg, Commissioner	Yes
MacDonald Kennedy, Commissioner	Yes
Dan Samaria, Commissioner	Yes

1 PASSED AND ADOPTED upon second reading this 5th day of January, 2021.

2
3 The foregoing Ordinance was offered by Commissioner Kennedy, who moved its adoption. The
4 motion was seconded by Commissioner Hamelburg, and upon being put to a vote the vote was as follows:

5
6 MacDonald Kennedy, Commissioner: Yes
7 Judi Hamelburg, Commissioner: Yes
8 Arturo Jose Gonzalez, Vice-Mayor: Yes
9 Dan Samaria, Commissioner: Yes
10 Virginia O'Halpin, Mayor: Yes
11

12
13 VILLAGE OF BISCAYNE PARK

14
15 
16 Virginia O'Halpin, Mayor
17
18

19
20 ATTEST:

21
22 
23 Roseann Prado, Village Clerk
24
25

26
27 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
28 USE AND RELIANCE OF THE VILLAGE OF BISCAYNE PARK ONLY:

29
30 
31 Edward A. Dion, Village Attorney
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49